



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN LIQUOR CONTROL COMMISSION  
ANDREW J. DELONEY  
CHAIRMAN

STEVE ARWOOD  
DIRECTOR

## Memorandum

**DATE:** November 7, 2013  
**TO:** Kerry Krone  
**FROM:** Steve Robinson and Julie Wendt  
**SUBJECT:** SB 506– Payment of Beer Excise Taxes

SB 506 amends section 409 of the Michigan Liquor Control Code of 1998 (Code) regarding the collection of beer tax by the Michigan Liquor Control Commission (Commission). Currently, if the beer is manufactured outside the state of Michigan, the beer tax report and beer tax of \$6.30 per barrel is paid by the Outstate Seller of Beer when the beer is shipped into the state. This tax is paid monthly by all Outstate Sellers of Beer whose tax liability for the preceding calendar year is less than \$50,000 per month. Those Outstate Sellers of Beer whose tax liability is more than \$50,000 per month must file the beer tax report and pay the beer tax twice per month. Of the 142 Outstate Sellers of Beer, there are four that file beer tax reports and pay beer excise taxes twice per month.

Similarly, if the beer is manufactured in Michigan, the beer tax reports and beer tax is paid by the brewer or brewpub when the beer is sold to the wholesaler or consumer. There are 107 Microbrewers and 56 Brewpubs currently licensed.

Under SB 506, if the beer is manufactured outside of Michigan, the wholesaler assigned to distribute the beer would be required to pay the tax; however, the tax would only be paid on the number of barrels sold by the wholesaler and the Commission could not require the wholesaler to pay the tax more frequently than quarterly. If the beer is manufactured in Michigan the beer tax will continue to be paid by the brewer or brewpub that manufactured the beer, unless the brewer or brewpub designates the wholesaler assigned to distribute the beer to pay the tax. Similarly, the wholesaler would only pay the beer tax on the number of barrels sold by that wholesaler and the Commission could not require the wholesaler to pay the tax more frequently than quarterly.

This bill also allows a wholesaler designated to pay a brewers beer tax to claim the beer tax credit available to eligible brewers. This beer tax credit is \$2.00 per barrel for the first 30,000 barrels manufactured. The Code defines an eligible brewer as a

brewer, whether or not located in this state that manufactures not more than 50,000 barrels of beer during the tax year for which the credit is claimed.

**Issues:**

1. At this time the Commission collects the tax from the Outstate Sellers of Beer at the time the beer is shipped into Michigan and sold to the wholesaler on a monthly basis or twice a month if the Outstate Seller of Beer's tax liability is more than \$50,000 per month. Under SB 506 the wholesaler would only pay the beer tax on a quarterly basis and only on the barrels sold, not the barrels received. It is suggested that the wholesalers be required to file tax reports on a monthly basis to protect the revenue stream for the state of Michigan.
2. The Outstate Sellers of Beer are required to provide invoices/computer reports of beer sold to the wholesalers under R 436.1621 and the wholesalers are required to file with the Commission the invoices of what was purchased from the Outstate Sellers of Beer under R 436.1631. However, under SB 506 the wholesalers will only pay tax on the barrels sold. Therefore, it will be extremely difficult to determine if the proper tax is being paid by the wholesaler since it will not necessarily be paid in the same month as it is shipped into the state and purchased by the wholesaler and not necessarily in the same quantity. It is suggested that wholesalers be required to report the barrels of beer received from each Outstate Seller of Beer (Anheuser-Busch, LLC; Heineken USA Incorporated; New Belgium Brewing Company, Inc., etc.) as well as the tax paid on the barrels sold. It is also suggested that language be inserted that wholesalers pay the tax on the barrels sold to retailers to avoid confusion on who pays the tax on wholesaler to wholesaler sales. These changes would provide the Commission with some way to ensure that the proper tax is being paid since the Outstate Seller of Beer is currently required by R 436.1621 to report all beer sold, delivered or imported into the state during the previous calendar month.
3. Under SB 506 a wholesaler designated to pay the tax of an eligible brewer may claim a credit of \$2.00 a barrel against the tax of \$6.30 a barrel. It is suggested that this language be removed and that only an eligible brewer be permitted to claim the tax credit as the wholesaler would not have access to the Alcohol Tobacco Tax and Trade Bureau (TTB) production reports to demonstrate that not more than 50,000 barrels of beer was manufactured during the tax year for which the credit is claimed.
4. If the brewer or brewpub that manufactures beer in this state designates the wholesaler to pay the pay the tax on behalf of the brewer, it is suggested that the wholesaler be required to provide that designation to the Commission so the Commission would be aware of whether to expect a tax report from that brewer.

5. Although the Commission is authorized to establish by rule a method for collection of the tax, it is suggested that, minimally, language be inserted in this bill to require wholesalers to file a tax report by the fifteenth of each month on all beer purchased from each Outstate Seller of Beer and the number of barrels of beer sold by the wholesaler designated by each Outstate Seller of Beer and to pay the tax on the beer sold. In this way there will be no lapse in the enactment of the bill and the ability of the Commission to promulgate rules to require the filing of the beer tax report and the payment of the tax on a monthly basis

